

SENATE BILL No. 51

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-30-20; IC 34-51-2-20.

Synopsis: Civil actions against property owners using force. Establishes rebuttable presumptions in actions based on fault and in actions based on an intentional act of a defendant that: (1) in an action under comparative fault, a person's contributory fault is greater than the fault of all other persons whose fault proximately contributed to any damages sustained by the person; (2) in an action for an intentional act, the person's intentional act caused the injury; and (3) in an action under comparative fault or for an intentional act, the person waived the person's right to recover damages sustained by the person if any part of an injury suffered by the person occurred while the person was committing a crime and resulted from another person's use of force or deadly force while the person was on real property owned, leased, or
(Continued next page)

Effective: July 1, 1999.

Meeks R

January 6, 1999, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.



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Digest Continued

otherwise legally occupied by one or more of the defendants. Specifies that the person's conduct in committing the crime bars any recovery by the person for damages arising from any defendant's use of force or deadly force.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

SENATE BILL No. 51

A BILL FOR AN ACT to amend the Indiana Code concerning civil law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-30-20 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1999]:

4 **Chapter 20. Presumptions and Affirmative Defense in Wrongful**
5 **Use of Force Actions**

6 **Sec. 1. This chapter applies to a:**

7 (1) **cause of action brought by a claimant or a claimant's**
8 **representative; or**

9 (2) **counterclaim made by a claimant or a claimant's**
10 **representative.**

11 **Sec. 2. As used in this chapter, "claimant" refers to a person**
12 **who is injured while committing a crime on the real property of**
13 **another person.**

14 **Sec. 3. As used in this chapter, "claimant's representative"**



includes a claimant's:

- (1) spouse;
- (2) child;
- (3) dependent; or
- (4) personal representative.

Sec. 4. As used in this chapter, "crime" means a felony or misdemeanor.

Sec. 5. In an action based on an intentional act of a defendant, if any part of an injury suffered by a claimant occurred while the claimant was committing a crime and resulted from another person's use of force or deadly force while the claimant was on real property owned, leased, or otherwise legally occupied by one (1) or more of the defendants:

- (1) the finder of fact shall presume that:
 - (A) the claimant's conduct caused the injury; and
 - (B) the claimant, in taking the first step toward the commission of the crime, knowingly and voluntarily waived the claimant's and the claimant's representative's right to recover damages sustained by the claimant during the commission of the crime; and
- (2) the claimant's conduct in committing the crime bars any recovery by the claimant or the claimant's representative for damages arising from any defendant's use of force or deadly force.

Sec. 6. A presumption under section 5(1) of this chapter is rebuttable.

SECTION 2. IC 34-51-2-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20. (a) This section applies to a:

- (1) cause of action brought by a claimant or a claimant's representative; or
- (2) counterclaim made by a claimant or a claimant's representative.

(b) This section does not apply to a defendant's use of force or deadly force by means of a:

- (1) deadly weapon (as defined in IC 35-41-1-8); or
- (2) device;

that is automatically activated or used in a manner that does not require action of the defendant to fire or operate.

(c) As used in this section, "claimant" refers to a person who is injured while committing a crime on the real property of another person.



1 (d) As used in this section, "claimant's representative" includes
2 a claimant's:

- 3 (1) spouse;
4 (2) child;
5 (3) dependent; or
6 (4) personal representative.

7 (e) As used in this section, "crime" means a felony or
8 misdemeanor.

9 (f) In an action based on fault, if any part of an injury suffered
10 by a claimant occurred while the claimant was committing a crime
11 and resulted from another person's use of force or deadly force
12 while the claimant was on real property owned, leased, or
13 otherwise legally occupied by one (1) or more of the defendants:

14 (1) the finder of fact shall presume that:

15 (A) the claimant's contributory fault is greater than the
16 fault of all other persons whose fault proximately
17 contributed to the claimant's damages; and

18 (B) the claimant, in taking the first step toward the
19 commission of the crime, knowingly and voluntarily
20 waived the claimant's or the claimant's representative's
21 right to recover damages sustained by the claimant during
22 the commission of the crime; and

23 (2) the claimant's conduct in committing the crime bars any
24 recovery by the claimant or claimant's representative for
25 damages arising from any defendant's use of force or deadly
26 force.

27 (g) A presumption under subsection (f)(1) is rebuttable.

28 (h) If there is a claimant's representative, the finder of fact shall
29 attribute a claimant's contributory fault under subsection (f)(1)(A)
30 to the claimant's representative.

31 SECTION 3. [EFFECTIVE JULY 1, 1999] This act applies to a
32 cause of action that accrues after June 30, 1999.

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